

In its closing days, the Trump Administration issued a rule designed to tilt EPA's cost-benefit analysis of air pollution regulations in favor of industry. Last week, EPA [rescinded](#) the rule. The rescission was no surprise, given that the criticisms of the Trump rule by economists as well as environmentalists. EPA's explanation for the rescission was illuminating, however. It sheds some important light on how EPA views the role of cost-benefit analysis in its decisions.

The Trump rule contained an industry wish list of provisions, all of them designed to make regulation more difficult. At the time, the provision that got the most attention related to co-benefits. Co-benefits are the beneficial side effects of a regulation. For example, a regulation designed to reduce mercury emissions from power plants also cut emissions of fine particulates, thereby saving thousands of lives. Anti-regulatory advocates argue that these co-benefits shouldn't count as part of the cost-benefit analysis. From an economist's point of view, it makes no sense to exclude co-benefits. Although the Trump Administration clearly wanted to exclude consideration of co-benefits, in the end it only [required](#) them to be analyzed separately from the "direct" benefits of the rule, such as the reduction in mercury in the case of the rule I mentioned.

Although they got much less attention at the time, the Trump rule contained numerous other provisions, [smuggled in](#) under the guise of clarifying agency procedures. It attempted to set out methodological requirements to govern the agency's use of scientific research on pollution risks. It expanded the number of regulations requiring quantitative cost-benefit analysis and tried to expand the role that the cost-benefit analysis would play in the final decision. It also invited courts to review EPA's compliance with these requirements.

These provisions were essentially an effort to straitjacket the agency's decision making process. Much of EPA's rescission is dedicated to explaining how the effort to mandate certain methodologies conflicted with good science.

A series of executive orders requires agencies to conduct cost-benefit analysis for rules having costs over \$100 million a year. The Trump rule expanded this mandate to include rules that were significant on other grounds, such as raising novel legal issues or being controversial. The Trump rule also required EPA to include consideration of the cost-benefit analysis in its decisions about issuing future rules, except for regulations that preclude consideration of cost.

EPA explained why expanding cost-benefit analysis to rules with smaller economic impacts was unwise. It emphasized that conducting a cost-benefit analysis is a complex task requiring significant agency resources. The process "takes considerable Agency resources

often spanning a year or more and frequently involves the development of policy relevant emissions inventories, photochemical air quality modeling, engineering research assessments and analyses, engineering cost assessments, and benefits assessments for human health, climate, visibility, ecological and/or other categories of benefits.” While this laborious process may be worthwhile for the regulations with the largest economic impact, it’s a poor investment for less costly regulations. Indeed, it seems to me, it might be worth considering whether to raise the threshold higher than \$100 million per year, given the delay and resource commitments involved.

Even more interesting is the EPA’s explanation of why cost-benefit analysis can be a bad fit for making regulatory decisions. Some important provisions of the Clean Air Act prohibit consideration of cost altogether. Many others do contain language either explicitly referring to costs or implying that costs can be considered as a factor in a regulation’s feasibility. But, EPA points out, these provisions vary widely in terms of the role of costs. Many make cost a secondary factor compared to a regulation’s environmental benefits. Other regulations involve important benefits that cannot be easily quantified or converted into monetary terms. Rather than assuming that cost-benefit analysis is the appropriate method for considering costs, the agency needs to consider “the statutory context, legislative history, and the nature of the program or environmental problem to be addressed to determine a reasonable manner of considering cost.”

Some advocates of cost-benefit analysis see it as the ideal method for making regulatory decisions. That group has included some past incumbents in the White House office that reviews regulatory actions by EPA and other agencies. The Biden EPA clearly rejects that view.

Notably, the Biden White House apparently went along with EPA’s position when it reviewed the rescission. That suggests that, unlike some past Administrations, the Biden White House is not going to prioritize cost-benefit analysis as the standard for issuing regulations.